

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, et al.,)	
)	
Plaintiffs,)	
)	
v.)	02 Civ. 7096 (LTS)
)	
SALTON, INC.,)	
)	
Defendant.)	
)	

**THE STATE OF CALIFORNIA'S PROPOSED CASH DISTRIBUTION PLAN;
DECLARATIONS OF HARRY M. SNYDER AND KATHLEEN FOOTE
IN SUPPORT THEREOF**

The State of California, through its Attorney General, Bill Lockyer, proposes that its pro rata share of the distribution in the above referenced case, approximately \$952,130, be distributed to the following charitable organizations and governmental agencies in the approximate amounts listed below:

1. California School Boards Assn./Project LEAN	\$ 95,000
2. Children's Hospital of Los Angeles	\$ 98,000
3. City and County of San Francisco	\$150,000
4. Congress of California Seniors	\$ 88,000

5. Latino Health Access	\$ 75,000
6. Public Media Center ¹	\$ 99,000.
7. Tulare County	\$100,000
8. University of California at Davis	\$ 75,000
9. Venice Family Clinic	<u>\$105,000</u>
TOTAL	\$885,000.

Each entity will use the funds for projects related to nutrition and health. A brief description of each project is set forth below.

The State of California also proposes that 7% of its funds, or \$66,650, be paid to Harry Snyder for administrative services, pursuant to Para. III.B. of the Settlement Agreement, dated September 5, 2002.² A description of the services provided by Mr. Snyder is provided below. Also attached, as Exhibits 1 and 2, are declarations by Harry M. Snyder and Senior Assistant Attorney General Kathleen Foote, in support of the proposed payment for administrative services.

I.

PROCESS OF SELECTING GRANT PROPOSALS

In an effort to provide an opportunity for all eligible organizations to apply for a grant

¹Any additional sums, including interest accruing after these calculations, will be included in this grant.

²“The Settlement Fund may further be used by the Plaintiff States, in their sole discretion, to pay for administration, and other costs of this settlement, in excess of monies otherwise provided for such purposes under the terms of this Agreement.” Settlement Agreement, pp. 7-8.

from the Salton Settlement Fund and to obtain the highest quality grant proposals to recommend to the Court, the California Attorney General determined to disseminate broadly notice of the grant availability and to establish a competitive application process. To implement this process, the Attorney General entered into a contract with Harry Snyder.³ Mr. Snyder is a attorney who has worked on public interest matters and with non profit organizations for several years.

Mr. Snyder reviewed literature about the current issues and problems in the nutrition and health fields. In consultation with Mr. Snyder, it was agreed that the Attorney General would limit grants to individual recipients to between \$75,000 and \$150,000, to maximize the effectiveness of the available funds. It was also determined that priority would be given to projects that were designed to (1) prevent heart disease; stroke; cancer and other serious diseases caused by excessive consumption of fat; (2) reduce incidents of childhood obesity; and (3) assist consumers in selecting foods and food preparation methods that are healthy and nutritious. Finally, it was determined that funds would not be available for academic or clinical research.

Mr. Snyder prepared notice of the availability of grants, which was posted on the Attorney General's web site on January 15, 2004. Mr. Snyder arranged for notice also to be posted on the web sites for the two largest health care foundations in California, the California Endowment and the California Wellness Foundation. Mr. Snyder sent notice to various organizations that might have been interested. We have also been informed that other organizations became aware of the availability of grants and further distributed the notice through newsletters and listservs. The deadline for submitting letters of intent was March 1,

³The process and the grant proposals are discussed in more detail in Mr. Snyder's declaration, attached hereto as Exhibit 1.

2004.

Mr. Snyder received approximately 600 letters of intent from nonprofit organizations and governmental agencies seeking funds totaling more than \$62,000,000. The proposed projects were reviewed by Mr. Snyder and his associate, Carl Oshiro, after discussions with staff from the California Attorney General's Office regarding criteria for selection. As a result of this process, fourteen organizations were invited to submit full and detailed applications.

These fourteen applications, seeking funds totaling \$1,880,765, were reviewed in more detail by Mr. Snyder and Mr. Oshiro. Additionally, they interviewed each of these fourteen applicants about their proposals, their organizations, finances, etc. A report was prepared and discussed with California Attorney General staff. Ultimately, with the advice and consultation of Mr. Snyder and Mr. Oshiro, the California Attorney General chose to seek court approval of grant proposals from the nine non-profit organizations and governmental organizations listed above.

After approval of the grant applications by the court⁴, Mr. Snyder will prepare contracts for the grants, obtain appropriate signatures, and arrange for the funds to be transferred to the approved grantees. Mr. Snyder will also obtain reports from the approved grantees six (6) months and one (1) year after the funds have been disbursed to insure the money is properly used. He will provide written reports to the Attorney General on the status of the projects.

⁴Mr. Snyder is also available to provide the Court with additional evidence and testimony on the process and the grant proposals.

II.

DESCRIPTION OF GRANT PROPOSALS

A. Ca. School Boards Association/Project Lean - California School Boards Association is a nonprofit organization representing approximately 1000 school districts and county boards of education in California. Project LEAN is administered through the Public Health Institute and the California Department of Health Services. It works to increase healthy eating and physical activity to reduce the prevalence of chronic disease, cancer, stroke, osteoporosis and diabetes. These two groups have worked together to provide school boards with tools, resources and training to establish school board policies that promote healthy eating. The proposed grant would enable these organizations to provide information, training and technical assistance to increase the number of school districts that enact and enforce policies that support healthy eating. The project would provide recommendations to school boards on how to develop a comprehensive nutrition and physical activity policy (as well as sample policies), training for school board members and technical assistance on policy development to school boards and interested communities in California.

B. Children's Hospital of Los Angeles - Children's Hospital of Los Angeles is a non-profit organization and one of the country's leading pediatric hospitals. It provides specialized medical care to young patients at the 286 bed hospital and satellite facilities in local communities. It is the primary safety-net hospital for low income children, with approximately 65-70% of its patients covered by Medicaid. Currently, CHLA has developed a program of exercise and fitness for overweight children and their families. This program is currently operating only in the San Gabriel Valley and provides services to 100-125 children and their

families per year. The proposed grant would allow CHLA to expand and enhance this program to provide services to children and their families in South Central Los Angeles and East Los Angeles, which have a significant minority and low income population.

C. City and County of San Francisco - The Department of Environment of the City and County of San Francisco operates a variety of programs involving energy efficiency, waste diversion, urban forestry, environmental justice and education. As part of its environmental justice initiatives, it has developed food pantries, community gardens and programs to increase the availability of nutritious foods and to provide education on healthy eating. The proposed grant would allow the Department to organize and operate a pilot farmers' market in the Eay View Hunters Point neighborhood. The goal is to increase the availability of fresh fruits and vegetables in this isolated, low-income area where the current food sources are fast food establishments, convenience stores and expensive, poor quality supermarkets.

D. Congress of California Seniors - The Congress of California Seniors Education and Research Fund is a nonprofit organization that provides educational programs and consumer information to seniors throughout California. Recent programs have pertained to such topics, as management of prescription drugs, energy deregulation, heat-induced health problems, rights in HMO's, etc. The proposed grant will allow the Congress to develop and conduct a program to educate mid-life and senior women about precautions regarding nutritional and diet supplements and dietary regimens.

E. Latino Health Access - The Latino Health Access is a non-profit organization that works at the community level to improve the quality of life and health for low income uninsured residents in Orange County. It places emphasis in central Santa Ana, because that community is

the most impoverished area in the county. The grant will allow LHA to add to its childhood obesity prevention program by creating parents' cooperatives to transport children to physical activities in order to overcome the barriers, including lack of transportation, lack of working parents' time, lack of open space for recreation and school policies that are difficult to change. The project will make it possible for low-income children to participate in organized physical activities and ensure that overweight children receive regular exercise time with a trainer, home visits and consultations with a registered dietician.

F. Public Media Center - Public Media Center is a non-profit social marketing and consumer advocacy organization that develops public information campaigns on public issues, such as public health, consumer rights and environmental protection. The proposed grant would allow it to develop an educational campaign directed at teen obesity and nutrition through high school journalism programs. PMC would conduct a consumer education campaign, targeting 600 high school journalism programs and newspapers published by journalism students, providing briefing materials on marketing of junk food to young consumers, a curriculum guide for high school journalism teachers and advisors, compelling examples of educational ads that can be used by high school newspapers and scholarship awards to encourage and recognize outstanding articles on the subject.

G. Tulare County - Tulare County Health and Human Services Agency is a governmental agency that develops, implements and promotes public policies that improve the well-being of county residents. It is a rural area, located in the San Joaquin Valley in central California. It provides primary care, mental health care, human services and health education to over 100,000 clients annually. Tulare County ranks 47th out of 58 counties for population living below the

poverty line. The prevalence of diabetes among adults in Tulare County is higher than in any other county in California. The proposed grant would allow the agency to educate the public about overweight/obesity issues in the county and mobilize the community to find and implement actions to combat the incidence of obesity in Tulare County children. The target audience would include community organizations, parents, health providers and professionals. Also, the agency would record Body Mass Index information and screen for a precursor of type-2 diabetes for children in grades 7 and 8.

H. U.C. Davis - The University of California at Davis Children's Hospital is a hospital within the UC Davis Medical Center, which is part of the UC Davis Health System. Through the hospital, the medical school, outpatient clinics and a network of primary care physicians, UCDHS provides services over thirty-three (33) counties, covering 65,000 square miles, with a population of approximately 6,000,000. The proposed grant would provide funding to a tele-medicine outreach and behavior modification program. The purpose of the program is to diagnose and manage obesity in children living in the Feather River, Hoopa and Round Valley Reservations in northern California where 50 to 69% of children seen at tribal health clinics were either obese or at risk for obesity. The project would adapt the Hospital's Fit-Kid and Fit-Teen Programs with the collaboration of experts in obesity and diabetes, Native American Health and tele-health/tele-medicine delivery.

I. Venice Family Clinic - The Venice Family Clinic is a non-profit primary health care clinic that provides primary health services to low income, uninsured and homeless residents in West Los Angeles. It is formally affiliated with U.C.L.A. School of Medicine and trains primary care physicians. The grant will allow the VFC to improve and formalize its Childhood Obesity

Prevention, Detection and Management Program. With funding, the VFC would identify at-risk patients, deliver clinical, educational and preventative services and improve access to fitness and nutrition programs serving children and youth.

III

PAYMENT TO CONSULTANT

The California Attorney General proposed to pay 7% of California's share of the settlement fund to Mr. Snyder for services provided in relation to the selection of proposed grant recipients.

As indicated above, Mr. Snyder has provided significant assistance in selecting the grant proposals. He has researched issues in the fields of health and nutrition. He arranged for notice to be widely disseminated. He has reviewed approximately 600 letters of intent and responded to approximately 500 inquiries. He and his associate have visited and conducted detailed interviews of the fourteen organizations selected to submit full grant proposals. He worked with staff from the California Attorney General's Office to evaluate these fourteen applicants and their projects. Further, he will continue to provide services after the proposals are approved by the court for a full year after the payments are disbursed.

As set forth in the Declaration of Kathleen Foote, attached hereto as Exhibit 2, the fee for Mr. Snyder's services is reasonable. One well respected foundation charges 15% of the fund to provide similar services, and fees between 8% - 10%, plus accrued interest, are common. With years of experience with charitable foundations and having recently surveyed organizations that perform such services, Ms. Foote is aware of only one situation in which a lower fee was charged. In that case, however, only organizations within a single metropolitan area were

eligible for grants, a factor which significantly reduced the extent of services needed. As further noted by Ms. Foote, Mr. Snyder's fee of 7% includes reimbursement for all out-of-pocket expenses. No additional payments have been or will be made to cover such costs.

Given Mr. Snyder's background and knowledge in the field of non-profit and public interest organizations and the charges by other organizations and individuals for similar services, Mr. Snyder's fee of 7% of California's share of the fund or \$66,650 is reasonable and should be approved.

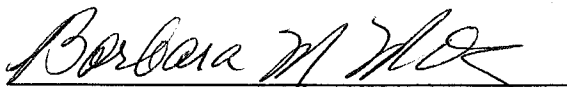
CONCLUSION

It is respectfully requested that the court approve the proposed grants and the payment to the consultant, Harry Snyder, in the amounts listed above.

Dated: July 12, 2004

Respectfully submitted,

BILL LOCKYER, Attorney General
of the State of California
RICHARD M. FRANK
Chief Deputy Attorney General
TOM GREEN
Chief Assistant Attorney General
KATHLEEN FOOTE
Senior Assistant Attorney General
BARBARA M. MOTZ
Supervising Deputy Attorney General



BARBARA M. MOTZ
Supervising Deputy Attorney General
300 South Spring Street, Room 1702
Los Angeles, CA 90013
(213) 897-2691 (phone)
(213) 897-2801 (fax)

EXHIBIT 1

the President of the California Public Utilities Commission (CPUC) and Director of Special Projects for the West Coast Regional Office of Consumers Union. In addition, he has served as Public Member and Chair of the California Telecommunications Education Trust (TET). Created by the CPUC, the TET made over \$16 million in grants to nonprofit organizations to inform California consumers about telecommunications services and public policy options.

4. To notify the public of the grants process and solicit letters of intent, we prepared a *Notice of Grants Process for Health and Nutrition Projects Benefiting California Consumers (Notice)*. The *Notice* described the Salton Settlement Fund, grants budget and criteria, eligibility, the process and deadline for submitting Letters of Inquiry (LOI) and how to contact us for more information. (A copy of the *Notice* can be found attached to Exhibit B.) The *Notice* was posted on the California Department of Justice's website on January 15, 2004.

5. In addition, the *Notice* was posted on the websites for the two largest health care foundations in California: The California Endowment and The California Wellness Foundation. We also sent the *Notice* to organizations that we thought might be potentially interested. The *Notice* was picked up and distributed further by nonprofit grants newsletters and listservs.

6. The deadline for submitting LOIs was March 1, 2004. Prior to that date, we received and responded to 504 inquiries from potential grant seekers about the Salton Settlement Fund. We received nearly 600 formal LOIs from nonprofit organizations and public agencies across California. The total amount requested was over \$62 million.

7. Based on the information submitted in the LOIs, we reviewed each proposed project according to the following criteria:

- A. Will the project advance the Fund's stated priorities? (i.e., prevent heart disease, stroke, cancer and other serious disease caused by excessive consumption of fat, reduce the incidence of childhood obesity, and/or assist consumers in selecting foods and food preparation methods that are healthy and nutritious.)
- B. Will the project make a meaningful impact? (Considering especially the primary purpose of the project, amount of funding requested, sources of additional funding (if any) and strategies to be employed.)
- C. Does the applicant have the capacity to successfully implement the project? (Considering especially, the applicant's mission, current programs and accomplishments, population served and relationships/networks with other organizations.)

Finally, we considered whether inviting the applicant to submit a proposal would further promote health and nutritional causes in California? (Considering the population served, geographic distribution, or type of benefit conferred.)

8. We reviewed current literature and had discussions with foundation staff with expertise in the areas of health, nutrition and childhood obesity and experience with many of the organizations and agencies submitting LOIs.

Based on our review, research and consultations, we recommended that fourteen organizations and agencies be invited to submit full proposals.

9. Following review and approval of our recommendations by the California Department of Justice, we sent letters to the organizations inviting them to submit full

proposals by 5:00 PM May 3, 2004. Accompanying the letter was an Application for Funding. The letter was also faxed to the contact persons designated by these organizations and agencies. We also sent letters notifying the other submitters that they were not chosen to submit applications.

10. All of the fourteen invitees responded by submitting Applications requesting in total \$1,880,765. For each proposal, we reviewed the applicant's financial information for at least two years and supplemental information about the applicant and project for which it is seeking funding. From May 11 through 26, 2004, we conducted site visits for each applicant and interviewed the key person(s) for each project. We also contacted program officers with The California Endowment, California Wellness Foundation, state agencies and county governments to inquire about past grants made to applicants. We also reviewed research articles, government reports and other materials for further background information regarding the problems identified in the proposals and strategies proposed to address those problems. We also conducted a *Nexis* search of news articles for the past two years for each applicant. Based on all of the information we received in the application and due diligence process, we considered each project according to the criteria described above in paragraph 7.

11. For each nonprofit applicant, we checked with the Secretary of State, Franchise Tax Board and Charitable Trust Registry to ensure that the organization is in good standing with these agencies. Nonprofit organizations were also checked against the online version of Internal Revenue Service Publication 78, a cumulative list of nonprofit organizations that are qualified to receive tax-deductible contributions.

12. Based on this information, we prepared a Write-Up for each application. The Write-Up includes background information about the applicant, financial information, key staff, funding requested and our funding recommendation. The Write-Ups, along with a cover memo outlining our work and a table of summary information listing each applicant, geographic area served, amount requested and recommended amount were submitted as "Findings and Recommendations" to the California Department of Justice on June 4, 2004.


13. On June 10 and June 17, 2004 we had telephone conference calls with Deputy Attorney General Barbara Motz to discuss our Findings and Recommendations, including the Write-Ups, submitted on June 4, 2004. As a result of the information provided and our discussions the Department of Justice has approved nine proposed projects to receive Salton Settlement funds. Each of the nine projects, described in Exhibit C, attached, will promote *cy pres* health and nutritional causes important to Californians.

14. Exhibit C contains a brief overview of the nine final applications that are submitted by the California Department of Justice for funding. Funding these proposals (both individually and together) will carry out the purpose of *cy pres* relief in this case by broadly advancing health and nutritional causes in California and promoting the health and nutrition policies identified in the *Notice of Grants Process* for the Salton Settlement Fund.

15. It is my judgment that the projects listed in Exhibit C will serve the diversity of Californian's health and nutritional needs as well as possible with the funds available and that the proposed recipients have the ability to successfully implement these projects.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8th day of July in San Francisco, California.



Harry M. Snyder

HARRY SNYDER
The Presidio
P. O. Box 29289
San Francisco, CA 94129

POLICY AND ADVOCACY

June 2002 to present: Harry Snyder, Consumer Advocacy

Appointed by the California Attorney General and the plaintiffs' attorneys, I am directing the solicitation, review, funding, and evaluation phases for grants to be distributed from the consumers settlement fund from a large antitrust suit. I have publications in progress on advocacy, philanthropy, and accountability in public policy. I am providing strategic and technical assistance to environmental, consumer and other public interest advocacy organizations.

CONSUMER REPRESENTATION/PUBLIC INTEREST LAW

June 1996 to June 2002: Senior Advocate
February 1976 to May 1996: Director or Co-Director
West Coast Regional Office
Consumers Union of United States, Inc.

Consumers Union is the nonprofit publisher of *Consumer Reports*. From 1976 until June 2002 I represented consumer interests on state and national issues and was responsible for many advocacy projects including efforts to distribute surplus food to low-income people, and the passage of federal and state legislation to establish Certified Farmers Markets. I was responsible for the publication of many studies providing research and analysis of issues such as campaign finance reform, red-lining of inner-city communities, the effectiveness of the California Department of Insurance, and the conversion of non-profit health care providers to for-profit publicly traded institutions. I supervised the creation of Patient's Rights Advocacy Services, the organization that protects the rights of mental health patients in San Francisco County. I helped establish the California Consumer Protection Foundation from the settlement of litigation involving Consumers Union as an intervenor. I started and direct *Community Health Assets Project* to protect and preserve nonprofit charitable assets in the midst of health care restructuring and conversion from nonprofit to for-profit corporations. Several foundations with endowments of over \$4 billion have been created as a result of advocacy campaigns for which I was directly responsible.

I represented Consumers Union either as a party or friend of the court in these actions, among others: a suit against the State Bar of California to permit attorneys to advertise; a suit against the State Department of Agriculture to eliminate minimum retail milk prices; a suit against the State Board of Pharmacy to permit generic drug substitution; a suit involving the State Alcohol Beverage Control Board to eliminate minimum retail pricing

for alcoholic beverages; a petition to the Federal Trade Commission to end children's television advertising; a suit to stop discrimination against children in rental housing; a petition to the California Department of Real Estate to end uniform pricing of real estate commissions, and a petition to the United States Department of Agriculture to eliminate the Federal Marketing Order for California-Arizona Navel Oranges.

I testified as a field authority on consumer interests to state and federal agencies and legislative bodies; spoke to business, professional, and general public groups as well as classes of school children on various aspects of marketplace economics and consumer problems; and I conducted workshops on public interest law, and on how to use the media effectively.

OVERSEAS DEVELOPMENT AND MANAGEMENT EXPERIENCE

In April 1970, I joined the Peace Corps Staff and worked for them overseas until June 1975, when I left my last post as Peace Corps Director in Nepal.

May 1970 – December 1971: Associate Director, Bangalore, India

As Associate Director, I was responsible for planning, implementing and supporting Peace Corps assistance to Mysore (now Karnataka) State's development programs. I wrote program proposal documents, conducted three-month training courses for some 55 volunteers and then supervised their work in animal husbandry, horticulture, small business advisers, education and farm credit.

January 1971 – July 1973: Director, Western Samoa

In this position I was responsible for the entire operation of the Peace Corps program in Western Samoa, with a staff of 36 and 95 volunteers. As the highest ranking U.S. government official in Western Samoa, I was responsible for diplomatic and consular representation to the government of Western Samoa.

July 1973 – June 1975: Director, Nepal

As Country Director for Nepal I was primarily involved in supervising 25 permanent Peace Corps staff members, 125 volunteers and 90 contract training staff, policy and budgetary design and interacting with personnel of the government of Nepal and other donor agencies (e.g., U.N.D.P., World Bank, F.A.O., A.I.D., etc.). I worked with the government's national planning commission to design, test and implement a system used for evaluating all government programs. As there is an American Embassy in Kathmandu, I was a member of the *Country Team* of the heads of all US agencies operating in Nepal.

GENERAL LEGAL EXPERIENCE

January 1967 to April 1970: Partner, Goodstein & Moffitt
September 1963 to December 1966: Associate

Goodstein & Moffitt was a Los Angeles law firm specializing in business, real estate and probate law. I handled business, corporate and real estate matters with the major responsibility for related litigation. I represented publicly and privately held corporations. My work included negotiation and drafting of contracts, agreements, leases, encumbrances, applications to the corporations commissioner and various other legal forms, as well as pleadings and legal briefs.

As a partner in the firm, I was involved in the reorganization and administration of our law office. Representative clients: IBM, Security Title Insurance, Century Bank, Wilshire Insurance Co., Transamerica Computer Leasing, and KNOB-FM.

EDUCATION

1960 University of Southern California, B.S. Finance
1963 University of California at Los Angeles, LL.B.

MEMBER

California State Bar Association

PUBLICATIONS

Getting Action: How to Petition Government and Get Results, Consumers Union of U.S., Inc., Fall 2002.

Building Strong Foundations, Snyder and Cowan, published by Consumers Union of U.S., Inc., and Community Catalyst, Inc., 2000.

The Public Interest in Conversion of Nonprofit Health Charities, Millbank Memorial Fund, Bell, Snyder and Tien, 1997.

"Reviving Citizenship in California," *California Policy Choices*, Vol. 5, 1989. Pp. 227-34.

Serious Tort Reform Isn't, 24 San Diego. *Law Review*, 893, 1987.

Getting Action: How to Petition State Government, Oshiro and Snyder, published by Consumers Union of U.S., Inc., Library of Congress No. 79-92863.

Medicare/Medigap, Oshiro and Snyder, published by Consumers Union of U.S., Inc., ISBN 0-89043-714-9.

Numerous articles and op-ed pieces

ADVISORY POSITIONS

2000 – present:	Community Partnership Board, UC Berkeley School of Social Welfare
1999 – present:	Advisory Committee, Petris Center on Health Care Markets and Consumer Welfare, UC Berkeley School of Public Health
1996 1985 – 1987	Board of Directors, Heart of the City Farmers Market
1979 – 1981	Consumer Consortium, responsible for advice on development of program for public representation on Drug and Medical Device Panels of the United States Food and Drug Administration, including recommendation of panel members to represent the consumer interest
1980 – 1995	Board of Directors, Center for the Study of Services
1987 – 1985	Member, California Commission on Corporate Governance
1983- 1985	Board of Directors, South of Market Food Co-op
1983 – 1984	Business Law Section, State Bar of California
1981 – 1983	Retail Credit Advisory Committee, State of California
1980 – 1984	Board of Editors, <i>Managing International Development</i>
1980 – 1981	Human Nutrition Advisory Committee, United States Department of Agriculture
1979 – 1983	Advisory Committee, California Institute of Human Services, Sonoma State University
1980	Security Regulatory Reform Task Force of the California State Business and Transportation Agency.
1979 – 1980	Advisory Board Core Group – Ethics and Values in Science and Technology – National Institute of Health/Stanford University School of Medicine project
1978	Federal Home Loan Bank Board advisory committee to alternative mortgage instruments research study
1977	California Labor-Consumer Task Force on Home Energy

AWARDS

- 2002 Foundation for Taxpayer and Consumer Rights, Consumer Advocate Hall of Fame**
- 2000 Gerbode Foundation Professional Development Award**
- 1991 In Appreciation Award – Mexican American Political Association**
- 1990 Public Interest Alumni of the Year, UCLA Law School**
- 1982 Public Service Award, California Common Cause**
- 1980 Award of Merit, Southwest Council of Retail Clerks of AFL-CIO**
- 1980 Special Appreciation Award, West Oakland Food Co-op**

EXHIBIT A

HARRY SNYDER
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1999 – present:	Advisory Committee, Petris Center on Health Care Markets and Consumer Welfare, UC Berkeley School of Public Health
1996 1985 – 1987	Board of Directors, Heart of the City Farmers Market
1979 – 1981	Consumer Consortium, responsible for advice on development of program for public representation on Drug and Medical Device Panels of the United States Food and Drug Administration, including recommendation of panel members to represent the consumer interest
1980 – 1995	Board of Directors, Center for the Study of Services
1987 – 1985	Member, California Commission on Corporate Governance
1983- 1985	Board of Directors, South of Market Food Co-op
1983 – 1984	Business Law Section, State Bar of California
1981 – 1983	Retail Credit Advisory Committee, State of California
1980 – 1984	Board of Editors, <i>Managing International Development</i>
1980 – 1981	Human Nutrition Advisory Committee, United States Department of Agriculture
1979 – 1983	Advisory Committee, California Institute of Human Services, Sonoma State University
1980	Security Regulatory Reform Task Force of the California State Business and Transportation Agency
1979 – 1980	Advisory Board Core Group – Ethics and Values in Science and Technology – National Institute of Health/Stanford University School of Medicine project
1978	Federal Home Loan Bank Board advisory committee to alternative mortgage instruments research study
1977	California Labor-Consumer Task Force on Home Energy

AWARDS

- 2002 Foundation for Taxpayer and Consumer Rights, Consumer Advocate Hall of Fame**
- 2000 Gerbode Foundation Professional Development Award**
- 1991 In Appreciation Award – Mexican American Political Association**
- 1990 Public Interest Alumni of the Year, UCLA Law School**
- 1982 Public Service Award, California Common Cause**
- 1980 Award of Merit, Southwest Council of Retail Clerks of AFL-CIO**
- 1980 Special Appreciation Award, West Oakland Food Co-op**

SELECTED HEALTH POLICY AND ADVOCACY ACTIVITIES*

Harry M. Snyder

July 8, 2004

1978 Established PATIENTS RIGHTS ADVOCACY SERVICES (PRAS) which is the representative for patients in the City and County of San Francisco mental health system

1979 Supervised Administrative Petition to the State of California to adopt regulations for implementing the Lanterman, Petris, Short Act to protect patients rights in the mental health system

1979-1982 Consumer Consortium of FDA Established system for selection, training and support for consumer representatives to serve on FDA Advisory Committees

Petitioned FDA to ban lindane for human use. Resulted in improved warning labels

1985 Challenged unregulated conversion of non-profit health care providers to for profit institutions. Resulted in first health care conversion foundation.

1987 Helped draft and pass Proposition 65, toxics warning label initiative.

1990 Co-authored MEDICARE-MEDIGAP The essential guide for older Americans and their families 212 pages

1992 MEDICARE-MEDIGAP revised and second edition published

1993 Supervised law suit that resulted in warning labels on raw milk products.

1994 Established national project to preserve the assets of non-profit health providers for community use when conversions to for profit businesses occur.

Over 125 health foundations with over \$16 billion in assets in 35 states have been created, including, The California Wellness Foundation, The California Health Care Foundation and The California Endowment. Helped pass laws in 25 states to regulate future conversions.

2000 Participated in the funding and establishment of the Petris Center at the University of California Berkeley School of Public Health

2000 to present Member, Board of Directors, Petris Center

2001 Conceived and helped pass California statute requiring Medical Outcomes Reporting

2001 Court appointed administrator for class action settlement fund of \$38m to be used for health, nutrition and anti-trust projects in California

2003 Contract with The California Endowment to provide training modules and training in health policy advocacy to grantees and others

2003 Appointed, Marianas Fund Advisory Committee, for distribution of cy pres funds to improve conditions of garment workers

2004 Lecturer in Health Policy Advocacy, graduate seminar at University of California School of Public Health, spring semester

Future:

2005 Lecturer in Health Policy Advocacy, graduate seminar at University of California School of Public Health, spring semester

***NOTE: I HAVE ALWAYS WORKED IN CLOSE COLLABORATION AND PARTNERSHIP WITH OTHER INDIVIDUALS, GROUPS AND ORGANIZATIONS. I HAVE ONLY LISTED ACTIVITIES IN WHICH I PLAYED A LEAD ROLE AS VIEWED BY MY CO-WORKERS.**

EXHIBIT B

**NOTICE OF GRANTS PROCESS FOR
HEALTH AND NUTRITION PROJECTS
BENEFITING CALIFORNIA CONSUMERS**

Deadline for Letters of Inquiry: 5:00 PM, Monday, March 1, 2004

The California Attorney General is now soliciting Letters of Inquiry (LOI) for the Salton Settlement Fund as part of a two-stage application process. The deadline for submitting a LOI is March 1, 2004. After reviewing all LOIs, we will inform you by April 1, 2004 whether or not we will solicit a full proposal from your organization or agency. The deadline for full proposals will be May 3, 2004.

The Salton Settlement Fund

The Salton Settlement Fund is the result of a settlement of an antitrust complaint brought by the California Attorney General and other state attorneys general against the Salton Corporation for alleged resale price maintenance and other anti-competitive conduct in the sale of Salton Contact Grills. Before going to trial and without admitting liability, Salton agreed to a court order prohibiting certain conduct in the sale of its indoor cooking grills including agreements to set retail prices.

As part of this settlement, Salton also agreed to pay approximately \$7.6 million to resolve claims of compensatory damages. Each state has been allocated a portion of this amount based on its population. California's share is approximately \$800,000. Because of the impracticability of identifying grill purchasers, potentially differing amounts of damages, the high cost of administering a check refund program relative to the potential average award and other factors, the settlement calls for distributing funds on a state-by-state basis to not-for-profit corporations, charitable organizations and government entities to advance health or nutrition-related causes.

Grants Budget and Criteria

The California Attorney General will be making approximately \$800,000 in grants to non-profit organizations and public agencies to improve the health and nutrition of consumers in the State of California. Grants will range in size from \$75,000 to \$150,000 for one-year. Because of the nature of the settlement funds, grants will be made on a one-time basis for specific projects and not general operating support. Project activities may involve information, education and/or advocacy. Priority will be given to projects designed to:

- Prevent heart disease, stroke, cancer and other serious disease caused by excessive consumption of fat;
- Reduce the incidence of childhood obesity and/or
- Assist consumers in selecting foods and food preparation methods that are healthy and nutritious;

Funding is not available for academic or clinical research.

Eligible Applicants

Applicants must be either:

- a. A **non-profit organization** under section 501(c)(3) of the Internal Revenue Code
- or
- b. A **public agency** (i.e., a state or local agency, department or instrumentality). The Salton Settlement provides that any funds received by a public agency must not be used to supplant or replace funding for any program, purchase or activity and the budget of the governmental entity must not be reduced to compensate for any funds awarded.

No preference will be given to any one type of applicant. All grants will be awarded based on merit.

TO APPLY FOR FUNDS

To apply for funds, please submit by March 1, 2004:

1. A completed LOI Coversheet.
2. A no more than two-page Letter of Inquiry describing your organization or agency and the project for which you are seeking funding. In particular, please address the following:
 - (a) The need or issue your organization/agency works to address;
 - (b) The primary purpose of the project for which you are seeking funding ;
 - (c) The amount of funding you are seeking;
 - (d) The source of additional funding if needed;
 - (e) Strategies you will employ to implement your project;

- (f) Current programs and accomplishments in the past year;
- (g) The population your organization/agency serves (including geography, socioeconomic status, race, ethnicity, gender, sexual orientation, age physical ability and language);
- (h) Your organization's relationships with other organizations/agencies and participation in networks of groups working to meet the same needs;

The Coversheet and Letter of Inquiry must be submitted by email to **saltonsettlementca@pacbell.net** by **5:00 PM, Monday, March 1, 2004**. After reviewing all of the information submitted, we will notify you by April 1, 2004 whether or not you should submit a full proposal. The deadline for proposals will be May 3, 2004. Preliminary funding decisions will be made in mid-June. All grants must be submitted to and approved by the U.S. District Court for the Southern District of New York before they can be funded. We anticipate that grants will be funded after mid-July. These dates are subject to change depending on the number of LOIs received and court schedule.

Contact Information

Harry M. Snyder 415-561-6747
Carl K. Oshiro 415-927-0158

The Presidio
P.O. Box 29289
San Francisco, CA 94129
Fax: 415-927-3515
Email: saltonsettlementca@pacbell.net

**SALTON SETTLEMENT FUND
LETTER OF INTENT COVERSHEET**

Date: _____

Name of Organization/Agency: _____

Executive Director: _____

Contact Person: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____ Email: _____

Project Name: _____

Amount Requested: \$ _____

Type of Entity (Check One):

_____ 501(c)(3) organization _____ public agency _____ other

Please provide a short paragraph describing your organization/agency (including your mission statement and a brief description of your project (100 word maximum please):

**Completed coversheets and Letters of Intent must be submitted to
saltonsettlementca@pacbell.net by 5:00 P.M., Monday, March 1, 2004.**

EXHIBIT C

EXHIBIT C

1. **California School Boards Association
California Project LEAN
Sacramento, California**

Proposal: California School Boards Association and California Project LEAN will use settlement funds to (1) inform school board members and county superintendents about the need for district-wide policies that will improve nutrition in schools and (2) provide technical assistance to school board members and superintendents in developing and implementing such policies.

California School Boards Association (CSBA) is a nonprofit organization that represents nearly 1,000 school districts and county offices of education in California. CSBA engages in advocacy and policy analysis on behalf of public education and children, provides educational opportunities for board members and superintendents on critical issues, works to educate the public and media about the role of school boards and public education.

Established in 1987, California Project LEAN (CPL) works to increase healthy eating and physical activity to reduce the prevalence of chronic disease, cancer, stroke osteoporosis, and diabetes. CPL funds and assists local community based organizations, public health departments and universities throughout the state to identify pressing nutrition issues and develop specific, community-centered solutions, often using a policy/advocacy approach.

CSBA and CPL state that because of the impact that student health has on learning, they have worked together in various ways to provide school boards with the tools, resources and training to establish board policies that promote healthy eating. This project builds on the work CSBA/CPL over the past four years and will help to ensure that school board members and county superintendents of schools receive up-to-date information about the need to adopt district-wide nutrition policies and assistance in developing and implementing such policies.

Contact: Peggy Agron, CPL, Executive Director

Funding: \$95,000

2. **Children's Hospital Los Angeles
Los Angeles, California**

Proposal: Children's Hospital Los Angeles will use settlement funds to improve the fitness and nutrition of overweight or obese children through expanding their Kids 'N Fitness program to South Central and East Los Angeles, California. Established in 1901, Children's Hospital Los Angeles (CHLA) is a non-profit organization and one of the country's leading pediatric hospitals,

providing specialized medical care to young patients at their 286-bed medical center, as well as at other community sites.

Created in 2000, CHLA's Kids 'N Fitness Program is a 12-week exercise and nutrition program to address the medical and psychosocial needs of overweight children and their families. The program's objectives are to reduce monthly weight gain in overweight and obese youth, promote sustainable lifestyle changes through healthier eating habits, more vigorous and frequent exercise and altering behaviors that lead to weight gain and provide follow-up care to sustain healthy behaviors including monthly exercise sessions and monitoring of patients' weight, eating and physical fitness. CHLA's proposal makes a successful program to address childhood obesity available to children in South Central and East Los Angeles (areas with high overweight and diabetes rates).

Contact: Marc Saenz, Project Coordinator, Center for Endocrinology, Diabetes and Metabolism

Funding: \$98,275

**3. City & County of San Francisco
Department of the Environment
San Francisco, California**

Proposal: The City and County of San Francisco will use settlement funds to organize, start-up, and operate a farmers' market in the Bay View Hunters Point neighborhood of San Francisco. The Departments' proposal to open a farmers' market will increase access to fresh produce leading to the improved nutrition and health of this low income minority area.

The Bay View Hunters Point (BVHP) area is isolated geographically and commercially from the rest of San Francisco. Community groups have identified the lack of fresh produce as a problem and have conducted basic research to document the problem and identify solutions. The project is consistent with the City of San Francisco's long-term plan to have a farmers market in every community and generally improve nutrition and health conditions for residents living in the BVHP.

Contact: Jared Blumefeld, Director

Funding: \$150,000

**4. Congress of California Seniors Education & Research Fund
Sacramento, California**

Proposal: Congress of California Seniors will use settlement funds to conduct a consumer education program to educate mid-life and senior women on the necessary precautions to take when considering a new dietary regimen or using nutritional or dietary supplements. Established in 1981, the Congress of California Seniors Education and Research Fund (CCSERF) is a nonprofit organization that provides educational programs and consumer information to seniors throughout California.

CCSERF is the education arm of California Congress of Seniors, an umbrella organization serving a combined membership of about 500,000 Californians through senior centers, senior residential facilities, women's clubs, tenant associations, community service groups, trade union retirees, retired federal/state government and public school employee organizations, advocacy groups and a variety of other agencies and organizations.

The market is being flooded with weight loss, health enhancement, rejuvenation and herbal products as well as vitamins, many with promotions aimed at older women. Some of these products such as Fen Phen and ephedrine are dangerous, while others are have questionable or no value. At the same time that these products are being marketed to older women, there is growing concern among seniors about the consequences of being overweight including cardiovascular disease and type 2 diabetes.

CCSERF proposes to educate mid-life and senior women consumers in California (many who are members of its affiliated organizations) about the most dangerous of these products and programs and to educate them on how to identify safe and effective products or plans which may help them accomplish their health and weight goals. CCSERF has experience conducting educational programs for seniors. As with past programs, it will train volunteer presenters and use its extensive network of affiliated organizations to hold workshops for senior women.

Contact: Gary Passmore, Executive Director

Funding: \$88,000

**5. Latino Health Access
Santa Ana, California**

Proposal: Latino Health Access proposes to use settlement funds to increase access to exercise and physical activity for low income, Latino children in Santa Ana, California. Established in 1993, Latino Health Access (LHA) is a nonprofit organization that works at the community level to improve the quality of life and health of low income, uninsured residents in Orange County. One of LHA's priority areas is preventing obesity and the chronic diseases resulting from this

condition in low income children in Orange County. The proposed project would serve at risk children in an area that is in tremendous need. The area served by the applicant and where the four schools targeted are located has the second highest percentage of overweight children in California.

Contact: America Bracho, Executive Director

Funding: \$75,000

**6. Public Media Center
San Francisco, California**

Proposal: Public Media Center will use settlement funds to conduct a consumer education campaign focused on teen obesity targeting 600 high school journalism programs and newspapers published by high school students. Established in 1970, Public Media Center (PMC) is a nonprofit social marketing and consumer advocacy organization that develops public information campaigns on public health, consumer rights, environmental protection and other public issues.

The problem of teenage obesity and overweight is a serious problem in California and nationwide. Recent data indicates that statewide 26.5% of children are overweight. Being overweight is associated with significant health problems in children and is an important early risk factor for adults. The project is aimed at reaching an important but difficult to reach population—high school students—in an innovative and compelling way to reduce and eliminate teen obesity—through high school newspapers and journalism programs.

Contact: Herb Chao Gunther, Executive Director

Funding: \$99,000

**7. Tulare County
Health and Human Services Agency
Visalia, CA**

Proposal: The Tulare County Health and Human Services Agency will use settlement funds to develop a community-designed action plan to improve the nutrition and physical activity habits of children living in low-income areas of Tulare County. Established in 1995, the Tulare County Health and Human Services Agency (HHSA) is a government agency that develops, implements and promotes public policies that improve the well-being of Tulare County residents.

Based on extensive county-wide data gathering, implementation of programs proven successful at addressing childhood obesity problems in local communities and the effective coordination of county health and education

resources, Tulare County seeks this grant to engage its community in designing and implementing an ongoing effort to limit and end this problem. This project is the third phase of Tulare County's plan to attack childhood and adult obesity. Because of the prevalence of childhood and adult obesity, low-economic status, ethnic diversity and rural location of Tulare County, this project would also help to address the disparity of health care and prevention services in California.

Contact: Jennifer Hosler, Manager, Prevention Services Division

Funding: \$100,000

**8. University of California Davis Children's Hospital
University of California Davis Health System
Davis, California**

Proposal: University of California Davis Children's Hospital will use settlement funds for a portion of a telemedicine-based obesity prevention project for Indian children on the Hoopa, Round Valley and Feather Reservation. Established in 1996, UC Davis's Telehealth Program uses high speed data lines linked to video units to connect specialists at the UC Davis Medical Center with primary care providers, clinics and hospitals throughout Northern California.

There is a tremendous need for effective programs to address the problem of overweight and chronic disease among American Indians in California. The California Health Interview Survey indicates that American Indians have the second highest rate of obesity and diabetes among ethnic groups in California. One of the major reasons for this project is that the reservations (particularly Hoopa and Round Valley) are remote making it difficult for residents to access specialty care and prevention services. Indian Health Services and UC Davis Medical Center are attempting to bridge some of this gap by investing in telemedicine facilities to deliver health information, provider training, specialty care and prevention services to the reservations.

Contact: Dr. Dennis Stynes, Program Director

Funding: \$75,000

9. **Venice Family Clinic**
Venice, CA

Proposal: The Venice Family Clinic will use settlement funds to improve the delivery of obesity prevention services to low income children in West Los Angeles County through improved screening, tracking, education and referral of pediatric patients who are at risk and working with the local agencies to increase access to physical activities.

Established in 1970, the Venice Family Clinic (VFC) is a non-profit primary health care clinic that is working to improve the health of people and communities through accessible, quality care at seven family clinics in Los Angeles County. As the largest free clinic in the nation, VFC is the principal provider of primary health care services to low-income, uninsured and homeless residents of Los Angeles County's West Health District. VFC is providing health services formerly provided by the County. VFC is formally affiliated with the University of California at Los Angeles (UCLA) as an administrative department within UCLA's David Geffen School of Medicine.

This project will improve and formalize the clinic's Childhood Obesity Prevention, Detection and Management Program (COPDMP). The program is intended to improve the quality of medical care and enhance access and quality of fitness and nutrition services in the community. In addition to directly benefiting pediatric clinic patients and their families, the project will also provide medical training in effective methods for identifying and treating childhood obesity to UCLA Pediatric Residents and Medical School students and to over 200 practicing volunteer doctors. The project would provide a replicable model for the coordination of clinic services and integration of health services with city, school and park programs to address childhood obesity.

Contact: Susan Fleischman, Medical Director

Funding: \$105,000

EXHIBIT 2

STATE OF NEW YORK, et al.,
Plaintiffs,
v.
SALTON, INC.,
Defendant.

I, Kathleen E. Foote, declare, as follows:

2. In my capacity as chief of the Antitrust Section, I have been a participant in several pieces of major litigation that produced settlement funds to be distributed to non-profit and governmental agencies based on *cy pres* principles. I have also participated in discussions with former Chief Deputy Attorney General Peter Siggins, current Chief Deputy Attorney General Rick Frank, and other individual section chiefs about distribution of *cy pres* funds through competitive grant-making processes administered either directly or via a conduit organization. In addition, last year I informally canvassed several private and community foundations, and consulted a representative of the League of California Community Foundations,

as to the fees normally charged when a grant-making institution undertakes to re-grant funds received from a donor that wishes the funds distributed on a competitive basis.

3. In a personal, voluntary capacity, I served for eight years as a trustee of the Marin Community Foundation, one of the largest community foundations in California, including two years as chairman of the Board of Trustees. That service included oversight of competitive grant-making of over \$25 million annually, and examination of administrative expenditures associated with same, as well as periodic communication with trustees and staff of other California community and private foundations engaged in similar grant-making activities.

4. I am informed and believe that the principal factors influencing the cost of administering a competitive grant-making program include the specificity of the purposes to be served by the program, whether the program is one-time or continuing, the ease of identification and extent of outreach to potential applicants, the number of applicants, the number of grants, the sophistication of applicants with respect to the grant-making process, the detail required as to the uses of the grant money, the rigor of due diligence review of applicants, and the frequency and detail of follow-up reporting or auditing.

5. While the Antitrust Law Section has previously handled several *cy pres* distributions without outside assistance, it was not practical to do so here. The Attorney General determined to have an open solicitation of grant applications from a broad range of non-profit organizations as well as public agencies, a limited number of which will be selected for funding through a competitive review process. Such distributions, to be done fairly and with wide outreach and transparency, require numerous hours of administrative time, as well as professional knowledge of grant-making, grant evaluation, and acquaintance with the relevant sector of the non-profit community. The Antitrust Law Section does not currently possess sufficient staff

resources to carry out this type of distribution effectively.

6. I have been informed of one instance in which a community foundation charged this office a five percent fee for re-granting *cy pres* funds to health care organizations within a single metropolitan area. I have been informed that one well-respected statewide private foundation normally charges a fifteen percent fee for re-granting, while several others charge 8-10%, plus accrued interest on the principal. Last year, I received an informal estimate of a ten percent fee for a \$30-40 million statewide re-granting program to be conducted by local foundations acting jointly.

7. Given a distribution amount of approximately \$1 million to \$5 million, with outreach to local organizations throughout the state, hands-on dealings with interested applicants, careful due diligence review and post-grant follow-up, based on my prior discussions and investigation I believe it is reasonable to expect to pay at least eight percent, and possibly as much as twelve percent of the total amount, plus interest accruing on the fund, as an administrative fee.

8. Based on the above, as well as on the strong qualifications of Mr. Harry Snyder as set forth in his declaration, and the detailed scope of work described therein, I believe the fee of 7% (which includes reimbursement for all out-of-pocket expenses) for Mr. Snyder's services is extremely reasonable, and his work will inure strongly to the benefit of the class.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed this 9th day of July, 2004, at San Francisco, California.


KATHLEEN E. FOOTE